

National Forest and Koloa Forest Reserve. In order to place a line of site signal to Princeville, a tower would have to be built north of 5,080 foot Mt. Waialeale, and 5,170 foot Mt. Kawaikini, which form an east-west barrier across the island, separating north and south portions of the island. Since this area is used for filming movies, the local residents and government entities place strict limits on tower construction, in order to preserve the unspoiled appearance of the region. In recent years, the state and county governments have precluded any site expansion and have also ordered tower owners to reduce height on existing towers. This latter situation caused both petitioners to lose their previously authorized sites for Princeville when the tower owner was ordered to reduce the tower's height. In addition, tourism considerations combined with the environmental concerns have combined to create a situation that limits all building of structures of significant height on the entire island, especially radio towers. However, there are existing towers that would serve Kapaa and Kalaheo and the parties state that this is the only feasible way that they can initiate service on their construction permits. They also state that they have secured tower space and are ready and able to start construction.

4. In support of its proposal for a first local service at Kapaa, Vetter states that Kapaa is a census designated place with a 1990 population of 8,149 persons. Vetter notes that Kapaa has its own fire department, post office, schools, library, public swimming pool and recreational facilities. It also has an Army National Guard facility and numerous governmental services, including its own water treatment plant. In addition to its own hospital, ambulance service and other medical services, Kapaa has numerous commercial establishments, banks, lodging facilities as well as churches and civic organizations. Finally, Vetter states that Princeville will continue to receive service from ten other stations.

5. In support of its proposal for a first local service to Kalaheo, B&GRS states that Kalaheo is a census designated place with a 1990 population of 3,592 persons. B&GRS notes that Kalaheo has its own fire station, post office, churches and local businesses, including health-care providers. In addition, B&GRS contends that Channel 260C1 facilities cannot be constructed at Princeville because of environmental opposition to available transmitter sites and a terrain obstruction that would preclude line-of-sight principal city service to all of Princeville from the one site it can locate. B&GRS also indicates that Princeville will continue to receive service from ten other stations.

6. In comments filed jointly in response to the *Notice*, Vetter states that it will file an application to construct Station KAWT on Channel 255C1 at Kapaa, and upon grant, construct and operate Station KAWT at Kapaa. B&GRS also pledges to file an application to construct Station KAYI on Channel 260C1 at Kalaheo, and upon grant, construct and operate the station at Kalaheo.

7. We will grant the change of community proposed by each petitioner. Both petitioners set forth information establishing that its respective prospective community of license is a community for allotment purposes. In addition, we believe that each change of community will result in a preferential arrangement of allotments because each change will result in a first local service to the community, and both Kapaa, with 8,149 persons, and Kalaheo with 3,592 persons, are larger in population than Princeville, which has 1,244 persons.

8. Furthermore, petitioners made a credible showing that they are not able to locate a transmitter site that will comply with the commission's rules with respect to city-grade coverage to Princeville. A staff engineering analysis, using the proposed coordinates provided by each petitioner for its proposed site, shows that neither site would be able to serve Princeville with a city-grade signal due to terrain obstruction as described in petitioners' joint submission. We have allowed stations to change community of license removing a sole local transmission service in similar situations in which a showing was made that no transmitter site could be located to place a city grade signal into the community of

license.³ Although this grant will result in leaving no transmission service in Princeville, we note again that both communities will receive their first local transmission services and are larger in population than Princeville. In addition, since neither station is on the air, we are not faced with the same concerns about loss of service that would be represented by the removal of an operating station,⁴ and the community will continue to receive radio service from at least ten other stations.

9. Accordingly, we will grant the proposed reallocation of Channel 255C1 from Princeville to Kapaa, Hawaii, and modify the Station KAWT construction permit to specify Kapaa as the community of license.⁵ Second, we reallocate Channel 260C1 from Princeville to Kalaheo, Hawaii, and modify the Station KAYI construction permit to specify Kalaheo as the community of license.⁶

10. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 8, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, as follows:

Community	Channel No.
Kapaa, Hawaii	255C1
Kalaheo, Hawaii	260C1

11. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this *Order*, to the following:

Harry C. Martin, Esq.
Andrew S. Kersting, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, VA 22209
(Counsel for Vetter Communications Co., Inc.)

and

Gary S. Smithwick, Esq.

³ See *Report and Order* in MM Docket No. 92-10, 10 FCC Rcd 7215 (1995) (Sanibel, San Carlos Park, Florida).

⁴ See *Report and Order* in MM Docket No. 98-52, 13 FCC Rcd 20997 (1998) (Hague, New York and Addison, Vermont); *Report and Order* in MM Docket No. 97-71, 12 FCC Rcd 7664 (1997) (Chatom and Grove Hill, Alabama); *Report and Order* in MM Docket No. 92-10, 10 FCC Rcd 7215 (1995) (Sanibel and San Carlos Park, Florida).

⁵ The reference coordinates for a Channel 255C1 allotment at Kapaa, Hawaii, are 22-04-42 NL and 159-19-19 WL.

⁶ The reference coordinates for a Channel 260C1 allotment at Kalaheo, Hawaii, are 21-59-54 NL and 159-25-35 WL.

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(Counsel for The B&GRS Partnership)

12. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the authorization of Station KAWT(FM) IS MODIFIED to specify operation on Channel 255C1 at Kapaa, Hawaii, and the authorization of Station KAYI(FM) IS MODIFIED to specify operation on Channel 260C1, at Kalaheo, Hawaii, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

13. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Vetter Communications Co., Inc. permittee of Station KAWT, Channel 255C1, Princeville, Hawaii, and B&GRS Partnership permittee of Station KAYI, Channel 260C1, Princeville, Hawaii are required to submit a rule making fee in addition to the fee required for the applications to effectuate changes of community from Princeville to Kapaa and Kalaheo, respectively.

14. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

15. For more information regarding this proceeding, contact Victoria M. McCauley, Mass Media Bureau (202) 418-2136.

FEDERAL COMMUNICATIONS COMMISSION

John A Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau